

IN THE DRAWINGS:

The drawings stand objected to under 37 C.F.R. § 1.83(a) as failing to show every feature of the invention specified in Claim 34.

Claim 34 is hereby cancelled. As such, the Examiner's objection to the drawings is now moot.

REMARKS:

Claims 21-25, 30, 33, 34, and 70-75 are currently pending in the application. Claims 1-20, 26-29, 31, 32, and 35-69 have been previously withdrawn and/or cancelled. By this Amendment, Claim 34 is hereby cancelled without prejudice or disclaimer of the subject matter recited therein to simplify issues for the Examiner and to advance the application to allowance. The Applicant hereby reserves the right to pursue all cancelled and/or withdrawn claims in continuation and/or divisional applications.

Claims 21, 22, 24, 25, and 30 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 102 and 107-110 of copending U.S. Application No. 10/829,790 in view of Pan et al. Claim 34 stands rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claims 21, 22, 23, 25, 33, and 70-75 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Pan et al. in view of Small. Claim 24 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Pan et al. in view of Small as applied to Claim 21, and further in view of Valdner. Claim 30 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Pan et al. in view of Small as applied to Claim 21, and further in view of Farr.

The Applicant submits that no new matter has been added to the application by this Amendment.

Reference To Related Applications and Reexamination Proceeding:

Applicant once again brings to the Examiner's attention U.S. Patent Application Nos. 11/199,956 and 10/829,790 and Inter Partes Reexamination Proceeding No. 95/000,104, which is a reexamination of U.S. Patent No. 6,612,713, the parent patent to the subject application.

Applicant further notes that a second Office Action was mailed in the Reexamination Proceeding on 5 December 2006. A response was filed by the Patent Owner, i.e., the Applicant herein, on 5 February 2007. Accordingly, the Applicant is presently awaiting action by the Examiner in the Central Reexamination Unit.

The Examiner is requested to review the Office Actions in the Reexamination Proceeding, as well as the Patent Owner's Responses to the Office Actions and all other papers and references filed in the Reexamination Proceeding. If the Examiner needs copies any of the documents from the Reexamination Proceeding and/or any of the related applications, the Examiner is respectfully requested to contact the undersigned.

Provisional Rejections Under Obviousness-Type Double Patenting:

Claims 21, 22, 24, 25, and 30 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 102 and 107-110 of copending U.S. Application No. 10/829,790 in view of Pan et al.

With regard to Claim 21, the Examiner states that Claim 102 of U.S. Application No. 10/829,790 meets all of the limitations of Claim 21, except "the LEDs being powered by the rechargeable power system without a need for connection to an AC power connection." The Examiner relies upon Pan et al. for this feature.

Claim 21 of the subject application includes the following feature not present in limitation Claim 102 of U.S. Application No. 10/829,790: "light emitting diodes conductively coupled to the rechargeable electrical power system via a conductor and being powered by the rechargeable electrical power system without a need for connection to an AC power outlet" In addition, Claim 102 of U.S. Application No. 10/829,790 includes the following feature not present in Claim 21 of the subject application: "an electrical opening and closing system for actuating the umbrella portion between the opened position and the closed position, the opening and closing system being conductively coupled to the rechargeable electrical power system via a conductor and being powered by the rechargeable electrical power system."

With regard to Claims 22, 24, 25, and 30, the Examiner states that Claims 107, 108, 109, and 110 of U.S. Application No. 10/829,790 in view of Pan et al. meet the limitations of Claims 22, 24, 25, and 30, respectively.

Claims 22, 24, 25, and 30 of the subject application are dependent claims based upon independent Claim 21. Likewise, Claims 107, 108, 109, and 110 of U.S. Application No. 10/829,790 are dependent claims based upon independent Claim 102. As such, the Applicant reiterates here the arguments and remarks set forth above with respect to Claim 21 of the subject application and Claim 102 of U.S. Application No. 10/829,790.

Thus, in each respective pair of claims, the claim from the subject application includes at least one feature that is not present in the claim from U.S. Application No. 10/829,790, and vice versa.

In addition, the Pan et al. reference does not disclose an electrical opening and closing system. Furthermore, filed herewith is a Declaration Under 37 C.F.R. § 1.131 in which the inventor, Gregory G. Kuelbs, swears behind the effective date of the Pan et al. reference. In light of this Declaration, the Applicant respectfully submits that the Pan et al. reference may not be relied upon to reject Claims 21, 22, 24, 25, and 30.

For these reasons, the Applicant submits that Claim 21 of the subject application and Claim 102 of U.S. Application No. 10/829,790 are patentably distinct and that an obviousness-type double patenting rejection based upon U.S. Application No. 10/829,790 in view of Pan et al. is not proper. Furthermore, the Applicant submits that Claims 22, 24, 25, and 30 of the subject application and Claims 107, 108, 109, and 110, respectively, of U.S. Application No. 10/829,790 are patentably distinct and that obviousness-type double patenting rejections based upon U.S. Application No. 10/829,790 in view of Pan et al. are not proper.

Because the Examiner's rejections are provisional double-patenting rejections, the Applicant respectfully requests that the Examiner hold the provisional double-patenting rejections in abeyance until claims in the subject application are found to otherwise be allowable.

Rejections Under 35 U.S.C. § 112, First Paragraph:

Claim 34 stands rejected under 35 U.S.C. § 112, first paragraph, as failing to

comply with the written description requirement.

Claim 34 is hereby cancelled. As such, the Examiner's rejection under 35 U.S.C. § 112, first paragraph is now moot.

Rejections Under 35 U.S.C. § 103(a):

Claims 21, 22, 23, 25, 33, and 70-75 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Pan et al. in view of Small.

The Applicant respectfully disagrees with the Examiner and submits that the claimed combination of features in Claims 21, 22, 23, 25, 33, and 70-75 are not rendered obvious under 35 U.S.C. § 103(a) over Pan et al. in view of Small.

Nevertheless, filed herewith is a Declaration Under 37 C.F.R. § 1.131 in which the inventor, Gregory G. Kuelbs, swears behind the effective date of the Pan et al. reference. In light of this Declaration, the Applicant respectfully submits that the Pan et al. reference may not be relied upon to reject Claims 21, 22, 23, 25, 33, and 70-75.

Claim 24 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Pan et al. in view of Small as applied to Claim 21, and further in view of Valdner.

The Applicant respectfully disagrees with the Examiner and submits that the claimed combination of features in Claim 24 are not rendered obvious under 35 U.S.C. § 103(a) over Pan et al. in view of Small as applied to Claim 21, and further in view of Valdner.

Nevertheless, filed herewith is a Declaration Under 37 C.F.R. § 1.131 in which the inventor, Gregory G. Kuelbs, swears behind the effective date of the Pan et al. reference. In light of this Declaration, the Applicant respectfully submits that the Pan et al. reference may not be relied upon to reject Claim 24.

Claim 30 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Pan et al. in view of Small as applied to Claim 21, and further in view of Farr.

The Applicant respectfully disagrees with the Examiner and submits that the claimed combination of features in Claim 30 are not rendered obvious under 35 U.S.C. § 103(a) over Pan et al. in view of Small as applied to Claim 21, and further in view of Farr.

Nevertheless, filed herewith is a Declaration Under 37 C.F.R. § 1.131 in which the inventor, Gregory G. Kuelbs, swears behind the effective dates of the Pan et al. and Farr references. In light of this Declaration, the Applicant respectfully submits that the Pan et al. and Farr references may not be relied upon to reject Claim 30.

In addition, the Applicant reiterates here as if set forth in full all of the arguments and distinguishing remarks made by Applicant earlier in this application.

CONCLUSION:

In view of the foregoing amendments and remarks, the Applicant respectfully submits that the application is now condition for allowance, and earnestly solicits an early reconsideration and a Notice of Allowance.

If any extension of time is needed to maintain the pendency of the application, this is an express request for any required extension of time, and authorization to charge any required extension of time fee and/or any other fee to maintain the pendency of the application to Deposit Account No. **Deposit Account No. 502806.**

Enclosed is a completed Credit Card Payment Form, Form PTO-2038, authorizing the Commissioner to charge \$405.00 to cover the \$225.00 Two-Month Extension Fee and the \$180.00 Information Disclosure Statement Fee to a designated credit card. No other fees are deemed to be necessary; however, the undersigned hereby authorizes the Commissioner to charge any fees that are necessary, or credit any overpayments, to **Deposit Account No. 502806.**

Please link this application to Customer Nos. 50779 and 38441 so that its status may be checked using the PAIR System.

Respectfully submitted,

3/19/07
Date

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CUSTOMER NOS. 50779 AND 38441

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